

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

CARL DUNCAN, JR., et ux

*

Plaintiffs

*

v.

*

Civil Action No.: WMN-03-380

GULF STREAM COACH, INC.

*

Defendant

*

* * *

MOTION TO STRIKE ADDENDUM TO DEFENDANT'S SUPPLEMENTAL
MEMORANDUM IN SUPPORT OF MOTION TO DISMISS OR TO TRANSFER

Carl Duncan, Jr., et ux, Plaintiffs, by Jeffrey N. Pritzker and Margolis, Pritzker & Epstein, P.A., file this Motion to Strike Addendum to Defendant's Supplemental Memorandum in Support of Motion to Dismiss or to Transfer, and as grounds therefor state as follows:

1. This action was filed by the Plaintiff in December, 2002, in a State Circuit Court and the Defendant removed same to this Court.
2. Thereafter, the Defendant filed a Motion to Dismiss or Transfer March 7, 2003, and was subsequently granted limited discovery on the jurisdictional question, arising out of the alleged execution of a Limited Warranty Agreement.
3. Defendant was to respond to Plaintiffs' Supplemental Answer to Defendant's Motion to Dismiss or Transfer on or before June 30, 2003, and as a courtesy because of the July 4th holiday, etc., the Plaintiffs agreed to extend the time for response through July 10, 2003. A Consent Motion was filed with the Court extending time to that date.
4. Defendant did respond as required.

5. Now on or about July 22, 2003, the Defendant has filed a subsequent "Addendum to Defendant's Supplemental Memorandum In Support of Motion to Dismiss or Transfer", with a new affidavit attached thereto. There was no Motion to extend time, nor was there any reason why this information could not have been obtained in a timely manner, as required by the Court and the deadline which had already been extended.

6. If allowed to be received, the aforementioned pleading continues to extend and delay this case, which has been pending in one Court or another since December, 2002 and which is of great import to the Plaintiffs, who are being denied an expeditious resolution of this jurisdictional issue so that their case can proceed promptly.

7. If the need arises to address that Addendum, both Plaintiffs vigorously deny the allegations of the affidavit attached to Defendant's Addendum. If the Court were to consider this belated filing, additional discovery and/or pleadings will be necessitated, thus further delaying the proceeding.

WHEREFORE, Plaintiffs move to strike the Addendum to Defendant's Supplemental Memorandum in Support of Motion to Dismiss or to Transfer and request same not be considered by the Court.

_____/s/_____
Jeffrey N. Pritzker
Margolis, Pritzker & Epstein, P.A.
405 E. Joppa Road - Suite 100
Towson, Maryland 21286
(410) 823-2222

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of August, 2003, a copy of the foregoing Motion to Strike Addendum to Defendant's Supplemental Memorandum in Support of Motion to Dismiss or to Transfer, and Affidavit of Sandra Duncan, was mailed by first-class mail, postage prepaid, to J. Thomas Caskey, Esquire, 401 Washington Avenue, Suite 204, Towson, Maryland 21204, Attorney for Defendant.

_____/s/_____
Jeffrey N. Pritzker

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AFFIDAVIT OF SANDRA DUNCAN

1. I, SANDRA DUNCAN, am over the age of eighteen and competent to testify.

2. I did not authorize anyone to sign my name or Carl Duncan, Jr.'s name to the Limited Warranty Agreement.

3. I did not discuss the Limited Warranty Agreement with "Charlotte Stine".

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing Affidavit are true.

July 31, 2003
Date

_____/s/_____
SANDRA DUNCAN